DOCKET NO: UWYCV186046436S

SUPERIOR COURT

LAFFERTY, ERICA Et Al
V.
JONES, ALEX EMRIC Et Al

JUDICIAL DISTRICT OF WATERBURY
AT WATERBURY

1/23/2023

ORDER

The following order is entered in the above matter:

ORDER:

In his Motion for Stay filed on January 6, 2023, the respondent/appellant Norman Pattis (respondent) requested that the court stay its order pending the disposition of the appeals of both the disciplinary suspension and the three underlying lawsuits. The court considered that motion, the objection filed by Disciplinary Counsel on January 10, 2023, and the reply filed by the respondent on January 11, 2023. The respondent, in his reply brief, waived oral argument and requested an immediate ruling by the court, in light of the respondent's trial obligations in United States of America v. Ethan Nordean, Et Al., 21-CR-175 (TJK), where the respondent represented defendant Joe Biggs. On January 11, 2023, the court denied the respondent's motion and sustained Disciplinary Counsel's objection, indicating that it had considered the factors as set forth in Griffin Hosp. v. Commission on Hospitals and Health Care, 196 Conn. 451, 457–58, 493 A.2d 229, 233–34 (1985). The court now provides an articulation and more detailed explanation of its ruling, as ordered by the Appellate Court on this date.

One of the factors considered by the court was the likely outcome on appeal. The court is of the belief that the respondent will not prevail on appeal. The evidence forming the basis for the court's decision was overwhelming and largely incontrovertible. The court detailed at great length the facts giving rise to the misconduct. While the respondent continues to minimize his misconduct by referring to it as "a single instance of misconduct" and a "singular instance of unauthorized disclosure", this is simply untrue. The court found misconduct because of the respondent's abject failure to label or otherwise identify the hard drive as containing protected medical records, or protected by court order. Additionally, the court found that misconduct occurred when the respondent intentionally disseminated the protected documents to Attorney Lee, the Texas bankruptcy attorney for InfoW who was not counsel of record in this matter. The court also found that it was misconduct for the respondent to intentionally distribute the records to Attorney Reynal, who was not counsel of record in this matter, and who was defending the Jones defendants in litigation in Texas brought by other Sandy Hook plaintiffs. The respondent's references to a "mistaken records release" is misleading. The only inadvertent record release was by Reynal to Attorney Bankston, who represented other Sandy Hook plaintiffs in the Texas litigation. Additionally, while the respondent argues that the only harm was potential and isolated, the court found that the harm was both actual and potential. The plaintiffs in the underlying litigation were actually harmed when their sensitive records, without their consent, were intentionally transmitted by the respondent to Lee and then to Reynal, and then inadvertently transmitted by Reynal, who did not know that he had been given them, to Bankston. The potential harm was even greater, given the history of this litigation. The respondent also argues that he will likely be successful on appeal, arguing that a six month suspension is disproportionate to the misconduct. The court agreed with the recommendation of disciplinary counsel that a six month suspension was appropriate. Furthermore, the trial court holds wide discretion in fashioning an appropriate disciplinary order. ''Inherent in [the attorney disciplinary] process is a large degree of judicial discretion. . . . A court is free to determine in each case, as may seem best in light of the entire record before it, whether a sanction is appropriate and, if so, what that sanction should be.'' (Internal quotation marks omitted.) Statewide Grievance Committee v. Dixon, 62 Conn. App 507, 515, 772 A.2d 160 (2001). For these reasons, the court is of the opinion that the respondent will likely be unsuccessful on appeal.

With respect to the irreparable harm factor, it may be that the suspension will have ended by the time the writ of error is resolved. If the respondent is successful on appeal, which is unlikely, the suspension will be vacated from his disciplinary record, such that there will be no irreparable harm.

The court also considered the delay upon non-moving parties. The respondent argues that the Jones defendants "would be harmed if (the respondent) were unable to prosecute their appeal and they were forced to hire new counsel and bring them effectively up to speed sufficiently to adequately litigate their appellate rights in a timely manner, thus depriving them of due process of law." That is simply untrue. In the underlying lawsuit, the respondent has filed a firm appearance, and other members of his firm have actively participated in this litigation. As the court noted in its January 5, 2023 decision, the respondent had a "team" working on the litigation. Leaving the stay in place would not delay the appeal for either the plaintiffs or the Jones defendants, given the firm appearance and the involvement of other attorneys in the firm.

The respondent posited that his other clients, including Biggs, would be harmed if the court did not terminate the stay. The respondent did not address whether he was the only attorney representing Biggs. What was clear from the respondent's reply brief was that this court's decision on the motion to terminate the stay was only one factor that the Biggs court would consider in determining whether to permit the respondent to remain as counsel in the Biggs case, and the court did take this into consideration.

The appellate process for the underlying lawsuits is in its infancy, and the litigants will likely exhaust every possible avenue of appeal given the nature of the lawsuits. This process could take many years. As the court stated in its disciplinary decision, "(i)f a Court disciplines an attorney, it does so not to mete out punishment to an offender, but so that the administration of justice may be safeguarded and the courts and the public protected from the misconduct or unfitness of those whose license to perform the important functions of the legal process." Statewide Grievance Committee v Schlugar, 230 Conn. 668, 674-675 (1994). There was no evidence offered to suggest that the respondent has taken any measures to prevent any further improper handling of an opposing party's medical or financial records., despite the bald assertion by the respondent in his reply brief that "steps have already been taken to prevent such misconduct from recurring." Given this lack of a explanation, coupled with the respondent's repeated argument that there was only a single mistake made, the court remained concerned with protecting the public and other litigants during a lengthy appeal process. There is a substantial public interest in protecting the public and other litigants from the misconduct of an attorney who not only fails to label or identify medical and other protected records, but also intentionally improperly disseminates the records, despite the warnings of the court, plaintiffs' counsel, and his own clients' prior attorney. It is not in the interest of justice to delay this protection for years while the respondent continues to represent other clients and pursue a lengthy appeal. As stated by Disciplinary Counsel, as "a self-governing body we owe a duty to the public to timely address lawyer misconduct. Respondent's conduct has harmed the legal profession and the public's view of the legal profession…it is important for the public, and most importantly the plaintiffs' in the underlying civil matter, to have faith that they may use the judicial process and their personal information will be properly safeguarded." For all of these reasons, and having balanced the equities involved in this matter, the court declined to terminate the stay.

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Judge: BARBARA N BELLIS